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BOOK REVIEWS.

THE CONSTITUTION OF THE COMMONWEALTH OF AUSTRALIA. By W. Harrison Moore. Second edition. Melbourne: Charles F. Maxwell (G. Part-ridge & Co.), 1910, pp. xxviii, 782.

The first edition of this work upon Australian constitutional law by the Dean of the Faculty of Law in the University of Melbourne appeared in 1902, less than two years after the Commonwealth of Australia Constitution Act received the royal assent. During the seven years since then there has arisen a large body of Australian constitutional law in the form of decisions of the High Court of the Commonwealth and of the Privy Council. Many important federal statutes have been passed and construed. We have therefore in this second edition a careful study of the Australian constitution in the light of its working. Many topics in it are familiar to the student of American constitutional law and history. Not a few constitutional problems upon which Australian statesmen and lawyers have been engaged are so like those which press for attention in this country that Mr. Moore's book cannot fail to be of service to the American student who is apt not to be informed as to the details of federal government in Australia.

Many features, much indeed of the phraseology, of the Australian constitution have been taken from the constitution of the United States and in the structure of constitutional construction and interpretation which has already been erected in the Australian Commonwealth many fundamental American doctrines have been used as a foundation. Among these Mr. Moore cites those of the immunity of federal instrumentalities (*McCulloch v. Maryland*), and of the power of the federal government to devise means for the execution of its powers. As with us the Australian constitution insists upon the reserved powers of the states and of the preservation of state power as a necessary part of the constitutional system (*Texas v. White*). Again, as the Australian constitution provides for freedom of interstate commerce and secures its regulation by federal power, American decisions have been used as guides. In other respects Australian constitutional law differs fundamentally from our own. The cabinet-parliamentary system interposes an effective obstacle to the theoretical separation of powers. The passing of the economic notions of laissez-faire and of the political philosophy of natural rights is shown in the silence of the Australian constitution as to all those guarantees of the sphere of the individual with which we are so familiar. The Australian constitution like our own provides for a federal supreme court, leaving to the Commonwealth Parliament the power to erect inferior tribunals. Starting from the same constitutional provision the legislative power in reference thereto has been vastly different in its exercise. But one federal court has been created by the Australian Parliament (the Court of Conciliation and Arbitration, erected in 1904). Instead, and here is where the whole Australian federal system parts company with the American, the Commonwealth Parliament has given jurisdiction of federal mat-

ters to the state courts. Moreover, appeals in practically all matters, state and federal, lie from the supreme court of each state to the federal High Court. How this fusion of judicial machinery will work out it is too soon to predict. Up to now there has been confusion due to the right of appeal both to the High Court and to the Privy Council. Thus upon the important question of the taxation by a state of the salary of a federal official, the Privy Council in *Webb v. Outtrim* (1907) held that the federal officers were liable to the state income tax, while the High Court had, on the authority of *McCulloch v. Maryland*, decided to the contrary.

It is to be noted that young as the Australian constitution is, there are those who insist upon a "progressive" interpretation. Quoting *Prigg v. Pennsylvania* (16 Pet. 610) the High Court in the *Union Label case* (1908) held to the doctrine that the "terms employed in the Constitution are to be interpreted according to the meaning which they bore at the time the Constitution was adopted. This principle is now assumed as an ordinary rule of construction." These examples, taken almost at random, will serve to show, it is believed, that the federal constitutional law of Australia has so many points of similarity and of contrast with our own that no student can afford to neglect it. Mr. Moore's excellent book will be found to be a trustworthy introduction to the subject.

J. S. R.

HANDBOOK OF INTERNATIONAL LAW. By George Grafton Wilson. St. Paul: West Publishing Company, 1910, pp. xxi, 623.

The text-book on International Law by Professor Wilson in collaboration with Mr. G. F. Tucker has been deservedly popular, five editions of it having appeared. Professor Wilson now offers his Handbook of International Law as one of the Hornbook series. The former text-book was characterized by excellent arrangement and clarity of expression. Its fault was a lack of incidental discussion and of expository material: in short it suffered from too much compression. The present volume in many ways is an expansion of the text-book to meet the requirements of the Hornbook series. It follows an analogous analytical scheme and has a similar series of appendices. The expository matter, however, is so much larger in amount that the book may rightly be regarded as a new and independent work.

The author, perhaps owing to the limitations of the series, has had to be somewhat dogmatic; the dogmatism appears in the black letter-texts, and some might object that International Law has suffered in the past from too much dogmatism. Again the series seems to require a statement of "the law as it is," with but incidental description of its becoming. The author has attempted, with some success, to overcome this by a generous use of quotations from treaties and state-papers, both in the text and in the foot-notes. Many of these are of recent date and illuminating. To certain modern topics scant attention is paid, as for instance, to that of leased territory, of the present aspects of the doctrine of the equality of states, and of jurisdiction over aliens. Extradition is dismissed with a two-page discussion, while the Declaration of London is printed in full in the appendix and large